IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11028 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ASOK B CHAUHAN

Versus

INSPECTOR GENERAL OF POLICE & CHIEF POLICE OFFICER

Appearance:

1. Special Civil Application No. 11028 of 1998

MS SADHANA SAGAR for Petitioner No. 1

MR PRADIP D BHATE A.G.P. for Respondent No. 1

RULE SERVED for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 10/03/2004

ORAL JUDGEMENT

The grievance of the petitioner is that though he has been working on part time basis since 19th June,

1992, with the respondents, his service has not been regularized despite repeated request.

1.1. It appears that the petitioner was appointed as water server on part time basis on 19th June, 1992. Initially, he was required to work for two hours. But now it is stated at the bar by Ms. Sadhna Sagar learned advocate for the petitioner that though there is no written order he has been rendering service for six hours in a day. On 4th November, 1992, he wrote a letter to respondent no. 3 under whom he was working for benefit of regularization of his service. Respondent no. 3 in turn by communication dated 4th February, 1993, recommended the case of the petitioner to respondent no. 1 - authority for regularizing the service of the petitioner. Respondent no. 1, however, rejected the recommendation by letter dated 22nd September, 1998. It appears that even subsequently, the petitioner made a request to respondent no. 2 for regularization of his service, but he has not received any reply till this date. He has, therefore, approached this Court.

2. As against that, no affidavit has been filed by the other side and the averments made in the petition remain uncontroverted.

3. The question regarding regularization of service on temporary or part time employee who has put in number of service has been considered and decided by this Court in Special Civil Application No. 8917 of 1998 and its cognate matters by judgment dated 17th February, 2004. In view of the said judgment, this petition deserves to be allowed with the following directions :-

The respondents are, therefore, now required to be directed that irrespective of the Circular of 21st August, 1995, they shall consider the case of the petitioner for appointment on permanent post in Class-IV and if the permanent posts are found vacant, he shall be appointed on the same in accordance with his claim, in the matter of seniority and the Regulations and if otherwise, he is not ineligible. Appointment should not be denied on the ground of overage or on the ground that it may amount to giving a back-door entry. This exercise to be carried out as early as possible but in any case not later than 30th May, 2004. If need be, the petitioner can make appropriate representation, which will be considered in light of this judgment and in particular, the direction given therein.

The petition is partly allowed. Rule is made

absolute to the aforesaid extent with no order as to costs.

[AKSHAY H. MEHTA, J.]

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